

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

v.

NO. 4:08CR00230-01 JLH

KELDRON L. CARLTON

DEFENDANT

ORDER

Keldron L. Carlton pled guilty to felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). Because Carlton had three prior violent felonies within the meaning of the Armed Career Criminal Act, he faced a mandatory of 180 months imprisonment, 18 U.S.C. § 924(e), and that was the sentence that the Court imposed. He appealed, challenging the enhancement to his sentence, but the Eighth Circuit affirmed. He filed a *pro se* motion for relief under section 2255, again based primarily on the enhancement to his sentence. The Court denied his section 2255 motion and declined to issue a certificate of appealability. Carlton did not file a notice of appeal and did not seek a certificate of appealability from the Eighth Circuit.

Carlton has now filed a motion entitled “Rule 33 Newly Discovered Evidence Motion to Reconsider and/or Alter Amend Judgement and Amend 2255.” While that motion cites Rule 33 of the Federal Rules of Criminal Procedure and purports to be based on newly-discovered evidence, in fact no newly discovered evidence is mentioned in the brief. Rather, Carlton contends that recent decisions of the United States Supreme Court alter the outcome of his sentencing. If Carlton’s contention is that the Supreme Court has issued a new rule of constitutional law, which has been made retroactive to cases on collateral review, then he must file a motion in the Eighth Circuit for permission to file a second or successive habeas corpus application. *See* 28 U.S.C. § 2244(b)(2)(A). The motion is DENIED. Document #94.

IT IS SO ORDERED this 21st day of January, 2014.

A handwritten signature in black ink, reading "J. Leon Holmes". The signature is written in a cursive, flowing style. The "J" is large and loops around the "L". The "H" is also large and loops around the "M". The signature is positioned above a horizontal line.

J. LEON HOLMES
UNITED STATES DISTRICT JUDGE